



January 5, 2000

Mr. Mark A. Flowers  
Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2000-0035

Dear Mr. Flowers:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 131753.

The City of Midland (the "city") received a request for an accident case report. You claim that the information is excepted from disclosure under section 552.101 of the Government Code and section 58.007(c) of the Family Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In order to be protected under common-law privacy, the information must contain highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and the information must be of no legitimate concern to the public. *Id.*

The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that the following types of information are excepted from required public disclosure under privacy: some kinds of medical information or information indicating disabilities or specific

illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), information concerning the intimate relations between individuals and their family members, *see* Open Records Decision No. 470 (1987), and identities of victims of sexual abuse or the detailed description of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982).

You assert that the information responsive to the request concerns the death of a minor child in a car accident and thus, contains highly intimate or embarrassing facts which should be withheld under common-law privacy. Although the information concerns a tragic accident, we do not believe that the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person. Moreover, there is a legitimate public interest in the information. Thus, the information is not protected by the common-law right of privacy and may not be withheld under section 552.101 of the Government Code.

You also assert that the information is protected under section 58.007(c) of the Family Code.

Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007(c). However, section 58.007(c) of the Family Code only pertains to juvenile offenders. Because the requested information does not involve a juvenile offender, section 58.007(c) does not apply to the requested information. Having found no exceptions that apply, you must release the requested information.

However, you correctly assert that driver's license numbers are excepted from disclosure. Section 552.130(a) of the Government Code excepts from disclosure information relating to a driver's license and motor vehicle title or registration issued by an agency of this state. Thus, you must not disclose driver's license numbers, license plate numbers or VIN numbers. Further, social security numbers may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have marked the information that you must withhold from disclosure under section 552.130(a) and section 552.101. We have also marked photographs which reveal the license plate number of the vehicle. Further, you have included a videotape which shows the license plate number of the vehicle. You must redact the image of the license plate.

Lastly, we note that the requested information contains a peace officer's accident report. *See* V.T.C.S. art. 6701d, § 47(b)(1). Section 47(b)(1) provides:

The Department or a law enforcement agency employing a peace officer who made an accident report *is required to release a copy of the report* on request to:

....

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident.

V.T.C.S. art. 6701d, § 47(b)(1) (emphasis added). Under this provision, a law enforcement agency “is required to release” a copy of an accident report to a person who provides the law enforcement agency with two or more pieces of information specified by the statute. *Id.* In this instance, the requestor has provided the department with the statutorily required information. Accordingly, you must release the accident report to the requestor.<sup>1</sup> Except for information protected by sections 552.130(a) and social security numbers, you must release the requested information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

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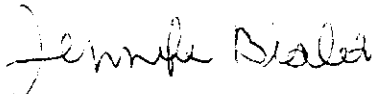
<sup>1</sup>You must release the entire report including driver’s license numbers, license plate numbers and VIN numbers.

2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek  
Assistant Attorney General  
Open Records Division

JHB/ch

Ref: ID# 131753

Encl. Marked documents

cc: Mr. Greg Carver  
P.O. Box 4000  
Norcross, Georgia 30091-4000  
(w/o enclosures)